

Exhibit A-4

(Damages Under State Statutory Claims)

Statute	Damages Provision	Case Law Finding Statutory Damages Provision Encompasses Out of Pocket Losses
Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §§4-88-101, <i>et seq.</i> (Count 5)	Effective August 1, 2017, the Arkansas legislature amended §4-88-113(f) to require a plaintiff to plead “an actual financial loss,” as opposed to “actual damage or injury.” <i>Mounce v. CHSPSC, LLC</i> , No. 5:15-CV-05197, 2017 WL 4392048, at *6 (W.D. Ark. Sept. 29, 2017). Under Arkansas law, “[b]ecause the amendment is substantive, it should only be given prospective effect[.]” <i>Id.</i> , at *7. Because Plaintiffs’ legal rights under ADTPA vested prior to August 1, 2017 (<i>i.e.</i> , in May 2017, when the Data Breach occurred), the pre-amendment version of §4-88-113(f) should apply. <i>See Landgraf v. USI Film Prods.</i> , 511 U.S. 244, 285 (1994); <i>Apex Oil Co., Inc. v. Jones Stephens Corp.</i> , 881 F.3d 658, 662 (8th Cir. 2018).	<i>M.S. Wholesale Plumbing, Inc. v. Univ. Sports Publ’ns Co.</i> , No. 4:07CV00730 SWW, 2008 WL 90022, at *3-4 (E.D. Ark. Jan. 7, 2008) (Claims of paying for a product that was “not at all what [defendant] represented” alleged sufficient facts to satisfy the ADTPA’s actual damage requirement.). Even if the amended version of §4-88-113(f) applies, Plaintiffs have alleged an out-of-pocket loss. <i>See</i> Ark. Model Jury Instr., Civil AMI 2900 (under the amendment, “the appropriate measure of damages is out-of-pocket loss”).
Connecticut Unfair Trade Practices Act, Conn. Gen. Stat., §§42-110a, <i>et seq.</i> (Count 7)	Conn. Gen. Stat. §42-110g(a) (requiring plaintiff to suffer an “ascertainable loss of money or property”).	Courts have held a number of types of economic damages to be recoverable as “actual damages” pursuant to CUTPA, including lost profits, <i>Capitol City Personnel Servs., Inc. v. Franklin</i> , 727 A.2d 1284, 1285-86 (Conn. App. Ct. 1999), the lost value of a business, <i>Westport Taxi Serv., Inc. v. Westport Transit Dist.</i> , 664 A.2d 719, 736-38 (Conn. 1995), and out-of-pocket losses, <i>Prishwalko v. Bob Thomas Ford, Inc.</i> , 636 A.2d 1383, 1389-90 (Conn. App. Ct. 1994).
Florida Deceptive and Unfair Trade Practices Act, Fla. Stat., §§501.201, <i>et seq.</i> (Count 8)	Fla. Stat. §501.211 (requiring plaintiff to “suffer[] a loss” to recover “actual damages”).	<i>Coffey v. WCW & Air, Inc.</i> , No. 3:17-cv-90-MCR-CJK, 2018 WL 4154256, at *7 (N.D. Fla. Aug. 30, 2018) (costs incurred based on defendant’s misrepresentation that home water supply was unsafe constituted “actual damages”); <i>PB Prop. Mgmt., Inc. v. Goodman Mfg. Co., L.P.</i> , No. 3:12-cv-1366-HES-JBT, 2016 WL 7666179, at *4 (M.D. Fla. May 12, 2016) (out-of-pocket expenses incurred for the costs of repairs required as a result of defendant’s misrepresentations

		were sufficient to allege actual damages).
Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS §§505/1, <i>et seq.</i> (Count 10)	815 ILCS §505/10a (providing individual cause of action for violation resulting in “actual damage[s]”).	<i>Dieffenbach v. Barnes & Noble, Inc.</i> , 887 F.3d 826, 830 (7th Cir. 2018) (finding that Illinois Supreme Court would not follow actual damages portion of <i>Cooney v. Chicago Public Schools</i> , 943 N.E.2d 23 (Ill. App. Ct. 2010), and holding that “[m]oney out of pocket is a standard understanding of actual damages[.]”).
Louisiana Unfair Trade Practices Act, La. Stat. Ann. §§51:1401, <i>et seq.</i> (Count 11)	La. Rev. Stat. §51:1409 (requiring an “ascertainable loss of money or movable property”).	Plaintiffs “alleged an ascertainable loss (loss of income, relevant market share, business reputation, goodwill, and attorneys’ fees and costs), specific amounts to be determined during discovery/trial.” <i>Green v. Garcia-Victor</i> , No. 2017-C-0695, 248 So. 3d 449, 456 (La. Ct. App. 2018).
New Mexico Unfair Practices Act, N.M. Stat. Ann. §§57-12-1, <i>et seq.</i> (Count 18)	N.M. Stat. Ann. §57-12-10(B) (requiring a “loss of money or property” for an action to recover damages).	<i>Porcell v. Lincoln Wood Prods., Inc.</i> , No. CIV-08-0617 MCA/LFG, 2010 WL 1541264, at *5 (D.N.M. Mar. 31, 2010) (out-of-pocket expenses to replace windows purchased based on defendant’s misrepresentations constituted “loss of money”). Plaintiffs do not need to show actual damages, or the actual loss of money or property to recover statutory damages. <i>See Lohman v. Daimler–Chrysler Corp.</i> , 166 P.3d 1091, 1099–100 (N.M. Ct. App. 2007) (“[T]he UPA does not require proof of actual monetary or property loss.”).
New York General Business Law, N.Y. Gen. Bus. Law §§349, <i>et seq.</i> (Count 19)	N.Y. Gen. Bus. Law §349(h) (a plaintiff may “recover his actual damages or fifty dollars, whichever is greater”).	A party seeking compensatory damages must allege that the deceptive acts and practices at issue “caused actual, <i>although not necessarily pecuniary</i> , harm.” <i>Oswego Laborers’ Local 214 Pension Fund v. Marine Midland Bank</i> , 85 N.Y.2d 20, 26 (1995). ¹

¹ Unless otherwise noted, emphasis is added and internal citations are omitted.

Tennessee Consumer Protection Act, Tenn. Code Ann. §§47-18-101, <i>et seq.</i> (Count 24)	Tenn. Code Ann. §47-18-109(a)(1) (requiring “an ascertainable loss of money or property ... or any other ... thing of value”)	“An ascertainable loss is a deprivation, detriment, or injury that is capable of being discovered, observed, or established.” <i>Discover Bank v. Morgan</i> , 363 S.W.3d 479, 495 (Tenn. 2012). “A loss is ascertainable if it is measurable, even though the precise amount of the loss is unknown.” <i>Id.</i> at 496. Ascertainable losses include both an “out-of-pocket loss or a loss of value.” <i>Id.</i>
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